

Attorney At Law

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Middletown, New Jersey 07748

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Attorney for Third-Party Defendant,

Magnacar Administrative Services, LLC

Our File No. 2366

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK AND PRESBYTERIAN HOSPITAL,

Plaintiff(s),

Case No. 08-CIV-7198

(Judge Scheindlin)

against

JEAN LOPES COLAS,

Defendant(s),

**ANSWER and AFFIRMATIVE
DEFENSES**

JEAN COLAS,

Third-Party Plaintiff,

against

MAGNACARE,

Third-Party Defendant.

Third-Party Defendant, Magnacare Administrative Services, LLC (improperly pled as Magnacare in the Third-Party Complaint and Magnacare, LLC in the Removal Notice), by way of answer to the Third-Party Complaint, says:

FIRST CAUSE OF ACTION

1. Third-Party Defendant does not have sufficient knowledge or information to form a belief as to the allegations of paragraph 1 of the Third-Party Complaint and, therefore, leaves Third-Party Plaintiff to his proofs.

Complaint.

3. Third-Party Defendant denies the allegations of paragraph 3 of the Third-Party Complaint.

4. Third-Party Defendant denies the allegations of paragraph 4 of the Third-Party Complaint.

5. Third-Party Defendant admits the allegations of paragraph 5 of the Third-Party Complaint.

6. Third-Party Defendant does not have sufficient knowledge or information to form a belief as to the allegations of paragraph 6 of the Third-Party Complaint and, therefore, leaves Third-Party Plaintiff to his proofs.

7. Third-Party Defendant admits the allegations of paragraph 7 of the Third-Party Complaint.

8. Third-Party Defendant admits the allegations of paragraph 8 of the Third-Party Complaint.

9. Third-Party Defendant denies the allegations of paragraph 9 of the Third-Party Complaint.

10. Third-Party Defendant denies the allegations of paragraph 10 of the Third-Party Complaint.

11. Third-Party Defendant denies the allegations of paragraph 11 of the Third-Party Complaint.

12. Third-Party Defendant denies the allegations of paragraph 12 of the Third-Party Complaint.

Complaint.

WHEREFORE, Third-Party Defendant, Magnacare Administrative Services, LLC, demands judgment dismissing the Third-Party Complaint, together with an award of counsel fees, costs of suit and any other relief the court deems equitable and just.

FIRST AFFIRMATIVE DEFENSE

The Third-Party Complaint fails to state a claim upon which affirmative relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Third-Party Defendant violated no duty owed to Third-Party Plaintiff.

THIRD AFFIRMATIVE DEFENSE

Third-Party Plaintiff and Third-Party Defendant are not under contract with one another whereby Third-Party Defendant provides Third-Party Plaintiff with health insurance coverage.

FOURTH AFFIRMATIVE DEFENSE

Third-Party Plaintiff's claims are barred by the applicable statute of limitations.

FIFTH AFFIRMATIVE DEFENSE

Third-Party Plaintiff's claims are barred by virtue of the statute of frauds.

SIXTH AFFIRMATIVE DEFENSE

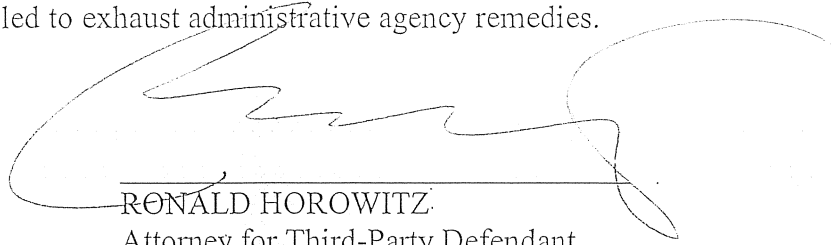
The damages alleged in the Third-Party Complaint were caused by the acts or omissions of third persons or parties over whom this Third-Party Defendant had no control.

SEVENTH AFFIRMATIVE DEFENSE

The Third-Party Complaint failed to join the party with whom this action cannot proceed, as provided by Fed.R.Civ.P. 19.

The Third-Party Plaintiff failed to exhaust administrative agency remedies.

Dated: August 19, 2008

A large, stylized handwritten signature in black ink, appearing to read 'Ronald Horowitz', is written over a horizontal line.

RONALD HOROWITZ
Attorney for Third-Party Defendant,
Magnacare Administrative Services, LLC

Attorney At Law
Tindall Professional Plaza
14 Tindall Road
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Attorney for Third-Party Defendant,
Magnacare Administrative Services, LLC
Our File No. 2366

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK AND PRESBYTERIAN HOSPITAL,

Plaintiff(s),

Case No. 08-CIV-7198
(Judge Scheindlin)

against

JEAN LOPES COLAS,

CERTIFICATION OF SERVICE

Defendant(s),

JEAN COLAS,

Third-Party Plaintiff,

against

MAGNACARE,

Third-Party Defendant.

RONALD HOROWITZ, of full age, hereby certifies and states as follows:

1. I am an attorney-at-law of the State of New Jersey, representing the Third-Party Defendant, Magnacare Administrative Services, LLC, and am fully familiar with this matter.

2. I hereby certify that on this date, copies of the Answer and Affirmative Defenses were served upon plaintiff by mailing same via ordinary mail to their attorney(s), Miller & Milone, P.C., 100 Quentin Roosevelt Blvd., Suite 205, Garden City, New York, 11530 and to

14 East 4th Street, Suite 408, New York, New York, 10012.

3. Pursuant to 28 U.S.C. 1746, I certify under penalty of perjury that the foregoing is true and correct.

Dated: August 22, 2008



RONALD HOROWITZ, ESQ.